IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.3761 OF 2006

Mohol Taluka Sahakari Shikshan
Prasarak Mandal, Mohol & Anr. .... Petitioners
Vs.
Dattatray Mohan Gaikwad & Anr. .... Respondents

Shri Surel S. Shah for the Petitioners.

Sarvasri Vijay Killedar h/f Nitin Jamdar
& Rahul Samant for the Respondent No.1.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: NOVEMBER 30, 2006

P.C:

The petitioners challenge the order passed by the School Tribunal rejecting the application filed by the petitioners for dismissal of the appeal by the respondent (No.1) on the ground that the cause of action for continuation of the appeal did not survive bearing in mind the provisions of Rule 26(4) of the MEPS Rules, 1981 and considering the offer which was given by the management to the respondent under the pursis dated 2-8-2003. Undisputedly, the respondent was a full-time teacher at the time of retrenchment. The offer made under the pursis dated 2-8-2003 was neither in relation to the same post nor in relation to the additional post which is equivalent to the post which was held by the respondent. The offer was, in fact, in respect of

part-time teacher’s post and that cannot be equated with full-time teacher’s post. Being so, it cannot be said that there was any cause for the petitioners to move for dismissal of the appeal by taking resort to the provisions of Rule 26(4) of the said Rules. Considering the same, no fault can be found with the impugned order passed by the School Tribunal dismissing the application filed by the petitioners for rejection of the appeal on the said ground. As there is no case made out of any jurisdictional error on the part of the School Tribunal which could warrant interference in exercise of jurisdiction under Article 227 of the Constitution of India, the petition fails and is rejected.

(R.M.S. Khandeparkar, J.)

sjs/1130wp3761.6